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**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	2:09-CR-508 (KJD)(LRL)
v.)	
)	
FRANCISCO JAVIER FRANCO,)	
)	
Defendant.)	

**STIPULATED MOTION FOR DISMISSAL
 OF CLAIM BY LOWELL WAYNE TOLIVER**

COME NOW the plaintiff United States of America, by and through the United States Attorney for the District of Nevada; and Lowell Wayne Toliver proceeding *pro se*, and jointly request that the motion of Lowell Wayne Toliver for return of property be dismissed because the parties have reached a mutual accord.

During the course of the investigation of the criminal case that formed the basis for the above-referenced prosecution, the Government learned that the handgun that the defendant had in his possession at the time of his arrest was stolen and the true owner was Lowell Wayne Toliver. The Government duly served notice on Mr. Toliver; and, proceeding *pro se*, Mr. Toliver filed his claim for the gun on or about January 8, 2012. This Court has granted several continuances allowing the Government to postpone its response to Mr. Toliver's claim while the Government negotiated with Mr. Toliver over the disposition of the gun.

1 The parties have reached a mutual accord of this matter, and the gun will be returned
2 to Mr. Toliver. Accordingly, the Government moves to dismiss the claim as filed by Lowell
3 Wayne Toliver. In a telephone conversation that took place on April 5, 2012, the
4 Government discussed the matter with Mr. Toliver and he has authorized Government
5 counsel to inform this Court that he consents to this motion, with the understanding that his
6 gun will be returned to him by the Government.

7 In summary, the Government and Mr. Toliver have reached an amicable resolution
8 to the above-captioned matter; therefore, further litigation of this matter is unnecessary.

9 As such, the parties jointly stipulate and agree to dismiss this matter with prejudice;
10 all parties to assume their own costs and fees of this litigation.

11
12 Respectfully submitted,

13
14 DANIEL G. BOGDEN
15 United States Attorney

16 /s/ Michael A. Humphreys
17 MICHAEL A. HUMPHREYS
18 Assistant United States Attorney

19
20 **ORDER**

21 It appearing that the parties have reached a mutual resolution of this matter and
22 that further resolution of this matter is unnecessary, it is, hereby,

23 ORDERED, ADJUDGED AND DECREED, that the claim/petition of LOWELL
24 WAYNE TOLIVER is, hereby dismissed and that each party shall assume their own fees
25 and costs.

26 Dated: April 6, 2012

27 
28 United States District Judge

PROOF OF SERVICE

I, Elizabeth Baechler-Warren, Forfeiture Support Associate Paralegal, certify that the following individuals were served with a copy of the foregoing on April 5, 2012, by the below identified method of service:

CM/ECF:

Raquel Lazo
Federal Public Defender
411 E. Bonneville Ave.
Las Vegas, NV 89191
Email: ECF_Vegas@fd.org
Counsel for Defendant Francisco Javier Franco

By Regular Mail on 4/5/2012:

Lowell Wayne Toliver
6321 Maxwood Court
Las Vegas, NV 89122

/s/ Elizabeth Baechler-Warren
Elizabeth Baechler-Warren
Forfeiture Support Associate Paralegal